

**FILED**

10-17-16

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Develop a Successor to Existing Net Energy Metering Tariffs Pursuant to Public Utilities Code Section 2827.1, and to Address Other Issues Related to Net Energy Metering

Rulemaking 14-07-002
(Filed July 10, 2014)

**ADMINISTRATIVE LAW JUDGE'S RULING ON COALITION OF ENERGY
USERS' SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP**

Party intending to claim intervenor compensation: Coalition of Energy Users	
Assigned Commissioner: Michael Picker	Administrative Law Judge: Anne E. Simon

PART I: PROCEDURAL ISSUES
(Completed by the party intending to claim intervenor compensation)

A. Status as "customer" (see Pub. Util. Code § 1802(b)):¹ The party claims "customer" status because the party is (check one):	Applies (check)
1. A Category 1 customer is an actual customer whose self-interest in the proceeding arises primarily from his/her role as a customer of the utility and, at the same time, the customer must represent the broader interests of at least some other customers. In addition to describing your own interest in the proceeding you must show how your participation goes beyond just your own self-interest and will benefit other customers.	<input type="checkbox"/>
2. A Category 2 customer is a representative who has been authorized by actual customers to represent them. Category 2 involves a more formal arrangement where a customer or a group of customers selects a more skilled person to represent the customer's views in a proceeding. A customer or group of customers may also form or authorize a group to represent them, and the group, in turn, may authorize a representative such as an attorney to represent the group. A representative authorized by a customer must identify the residential customer(s) being represented and provide authorization from at least one customer. See D.98-04-059 at 30.	<input type="checkbox"/>
3. A Category 3 customer is a formally organized group authorized, by its articles of incorporation or bylaws to represent the interests of residential customers or	

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

small commercial customers receiving bundled electric service from an electrical corporation. ² Certain environmental groups that represent residential customers with concerns for the environment may also qualify as Category 3 customers, even if the above requirement is not specifically met in the articles or bylaws. <i>See</i> D.98-04-059, footnote at 3.	<input checked="" type="checkbox"/>
The party's explanation of its customer status must include the percentage of the intervenors members who are residential ratepayers or the percentage of the intervenors members who are customers receiving bundled electric service from an electrical corporation, and must include supporting documentation: (i.e., articles of incorporation or bylaws).	
Do you have any direct economic interest in outcomes of the proceeding? ³ Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/> If "Yes", explain:	
B. Conflict of Interest (§ 1802.3)	Check
1. Is the customer a representative of a group representing the interests of small commercial customers who receive bundled electric service from an electrical corporation?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. If the answer to the above question is "Yes", does the customer have a conflict arising from prior representation before the Commission?	<input type="checkbox"/> Yes <input type="checkbox"/> No
C. Timely Filing of Notice of Intent (NOI) (§ 1804(a)(1)):	Check
1. Is the party's NOI filed within 30 days after a Prehearing Conference? ❖ Date of Prehearing Conference: Oct 30, 2014	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
2. Is the party's NOI filed at another time (for example, because no Prehearing Conference was held, the proceeding will take less than 30 days, the schedule did not reasonably allow parties to identify issues within the timeframe normally permitted, or new issues have emerged)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2a. The party's description of the reasons for filing its NOI at this other time: First, Coalition of Energy Users was already accepted, and was just recently denied and could not submit a NOI because it was, until recently under the impression that it was accepted and just drafted this NOI because of the rejection of the last NOI a few weeks ago.	

² Intervenors representing either a group of residential customers or small commercial customers who receive bundled electric service from an electrical corporation, must indicate in Part I, Section A, Item #4 of this form, the percentage of their members who are residential customers or the percentage of their members who receive bundled electric service from an electrical corporation. The NOI may be rejected if this information is omitted.

³ *See* Rule 17.1(e).

Second, Coalition of Energy Users needed time to amend it's bylaws which are attached and demonstrate that the interests of its bylaws are indeed, "to advance the interests of energy users."

Third, Coalition of Energy Users needed time to compile data that it has a significant amount of members that are affected by this decision and are in the jurisdiction of this procedure. This survey and information is attached with this NOI.

Fourth, Coalition of Energy Users has undergone financial hardships and had to find funding to create staff to focus on this procedure and could not operate with normal time frames.

PART II: SCOPE OF ANTICIPATED PARTICIPATION
(Completed by the party intending to claim intervenor compensation)

A. Planned Participation (§ 1804(a)(2)(A)(i)):

The party's statement of the issues on which it plans to participate:

Coalition of Energy Users is a network of grassroots activists including thousands of regular citizens. Many of our members are on CARE and we will look at those issues. Look at the various types of tariffs and the various options for a successor NEM. We will examine in detail the economic advantages and disadvantages to the individual energy user at home with the affects of a NEM. We will also examine various methods for evaluating the carious aspects of AB 327 and AB 639. Finally, examine the aspects of the program with specific detail towards the pricing mechanisms, fees, meter reads, billing and the various waivers.

The party's explanation of how it plans to avoid duplication of effort with other parties:

There are not any parties that are focused on the individual citizen whom are interested first and foremost there personal home energy NEM which affects them and could be seen as disproportional favoritism to other home owners.

The party's description of the nature and extent of the party's planned participation in this proceeding (to the extent that it is possible to describe on the date this NOI is filed).

Coalition of Energy Users intends to participate fully in the remaining actions of the proceeding by presenting to the California Public Utilities Commission with information regarding the commissions' legal and ethical obligations with respect towards, the future legal actions, in various legislative laws, and CPUC proceedings, and various legal regulations. Represent a coalition of concerned home energy users all across the California state, through testimony, advocacy, and expert analysis.

B. The party's itemized estimate of the compensation that the party expects to request, based on the anticipated duration of the proceeding (§ 1804(a)(2)(A)(ii)):

Item	Hours	Rate \$	Total \$	#

ATTORNEY, EXPERT, AND ADVOCATE FEES				
David Marks	20	350	7,000	1
Eric Eisenhammer	20	150	3,000	2
Damian Fussel	100	125	12,500	3
Subtotal: \$				
OTHER FEES				
Rosa Hernandez	22	100	2,200	4
Subtotal: \$2200				
COSTS				
Postage, photocopies, deliveries, administrative fees				
Subtotal: \$300				
TOTAL ESTIMATE: \$25,000				
<p>Estimated Budget by Issues: 20-25% on expert research 50-60% Liaison work with community outreach, testimony and citizen participation 15-30% Advocacy research and administration activities</p> <p>Comments/Elaboration (use reference number from above) Coalition of Energy Users expects to be an engaged participant in this CPUC, R.14-07-002 proceeding, even though it is difficult to estimate with certainty of the magnitude of our expected request at this stage of the proceeding. The amount of any future claim to compensation is dependent upon the Commission's final decision in this proceeding, as well as the resources Coalition of Energy Users has to devote to this proceeding going forward. The rates and hours are a reasonable estimate of expenses because each participant is an expert in their respective field.</p> <p>Comment #1: David Marks earned his AA degree from Sawyer college, BSEE with a minor in math from California State University, Fresno, and his MBA in operations at California State University, Stanislaus. David Marks is an engineer and has analyzed many environmental aspects that relate very well to the notions in this proceeding, R.14-02-007. David Marks has experience as an instructor at ITT Technical Institute and California State University, Stanislaus.</p> <p>Comment #2: Eric Eisenhammer, earned a Bachelor of Sciences in Businesses Administration State University, Northridge and a Master's in Public Policy from California State University of California, Sacramento. Eric Eisenhammer is the founder of Coalition of Energy Users and has extensive experience with citizen outreach and being a liaison to citizens affected by energy policies.</p> <p>Comment #3: Damian Fussel, earned an AS degree from Yuba College in Science, Bachelor of Science in Political Science, American Government and Literature with an emphasis in Writing from the University of California, San Diego. Damian has a plethora of experience with public policy cases and liaison actions contacting citizens and people concerned with energy policies.</p>				

Comment #4: Rosa Hernandez earned a Bachelor of Arts in Linguistics and a Bachelor of Arts in Anthropology from the University of California, Davis. Rosa Hernandez is experienced in administrative and finance capacity. Rosa Hernandez currently runs several small businesses performing bookkeeping, and a plethora of functions crucial for this CPUC proceeding.

PART III: SHOWING OF SIGNIFICANT FINANCIAL HARDSHIP
(Completed by party intending to claim intervenor compensation)

A. The party claims “significant financial hardship” for its Intervenor Compensation Claim in this proceeding on the following basis:	Applies (check)
1. “[T]he customer cannot afford, without undue hardship, to pay the costs of effective participation, including advocate’s fees, expert witness fees, and other reasonable costs of participation” (§ 1802(g)); or	<input checked="" type="checkbox"/>
2. “[I]n the case of a group or organization, the economic interest of the Individual members of the group or organization is small in comparison to the costs of effective participation in the proceeding” (§ 1802(g)).	<input checked="" type="checkbox"/>
3. A § 1802(g) finding of significant financial hardship in another proceeding, made within one year prior to the commencement of this proceeding, created a rebuttable presumption in this proceeding (§ 1804(b)(1)).	<input type="checkbox"/>
Commission’s finding of significant financial hardship made in proceeding number:	
Date of Administrative Law Judge’s Ruling (or CPUC Decision) in which the finding of significant financial hardship was made:	
B. The party’s explanation of the factual basis for its claim of “significant financial hardship” (§ 1802(g)) (necessary documentation, if warranted, is attached to the NOI:	

ADMINISTRATIVE LAW JUDGE RULING

1. The ruling requires Coalition of Energy Users to clarify and complete its showing of customer status:	<input checked="" type="checkbox"/>
Coalition of Energy Users’ (CEU) original Notice of Intent to Claim Intervenor Compensation (NOI) stated that CEU is a network of grassroots activists including thousands of regular citizens. ⁴ CEU’s specific purpose stated in the articles of incorporation and bylaws has been advancing “the interests of energy users.” ⁵ A ruling of	

⁴ NOI filed November 13, 2015, Part II(A).

⁵ A copy of Articles of Incorporation was filed on November 7, 2011, and a copy of the bylaws – on July 30, 2012, in R.11-10-003

May 26, 2016 rejected the NOI, because CEU was not authorized to represent the interests of eligible customers, such as residential or small commercial receiving bundled electric service, as required under § 1802(b)(1)(C). On June 16, 2016, CEU filed the amended NOI; however, information in the amended NOI is inconsistent and CEU's status continues to be unclear. CEU is directed to provide additional information to help determine if CEU represents eligible customers pursuant to §1802(b).

CEU states that it is a network of grassroots activists including thousands of regular citizens. This would indicate that CEU's members are residential, rather than commercial, ratepayers; the NOI, however, states that, according to a survey, small business owners constitute 39% of the membership. It is not clear whose interests CEU represents. In addition, the survey results may not be representative of CEU's constituents since less than ten percent out of 19,000 members⁶ participated.

It is not clear what constitutes CEU's membership. Although CEU speaks of thousands of regular citizens-members, bylaws and articles only contain provisions regarding CEU's board of directors. CEU's website provides only one option – business membership.⁷

Furthermore, even with the amended bylaws, CEU's purpose of representing the interests of energy users, irrespective of their categories or sizes, remains the same.⁸ The authority to represent eligible customers is provided in the bylaws within that overbroad purpose and thus leaves the question about the scope of CEU's agenda open:

Coalition of Energy Users shall be organized to ... to advance the interests of **energy users**. Coalition of Energy Users is authorized **under this purpose** to represent the interests of residential customers, or to represent small commercial customers who receive bundled electric service from an electrical corporation.
Bylaws §I(2) ... To be eligible Board Members must support the interests of

An eligible intervenor, however, must single-mindedly⁹ advance the interests of residential or small commercial utility customers receiving bundled electric service. An overly broad

⁶ See CEU's motion for party status filed 11/13/15.

⁷ <http://coalitionofenergyusers.org/donate/>

⁸ See, for example, CEU's documents filed in R.11-10-003 on November 7, 2011 (Articles of Incorporation) and July 30, 2012 (Bylaws).

⁹ D.00-04-026, 2000 Cal. PUC LEXIS 203, *19.

<p>category of the “energy users” includes constituents – such as, for example, large or medium commercial and industrial electric customers – whose interests are not covered by §1801 – 1812. To help clarify this issue, CEU must provide additional information, as explained in more detail in section 4 of this ruling.</p> <p>Amended Bylaws are not a valid document: CEU provides a copy of the text that is different from the one filed previously; however, the new document is not signed, and there is no date indicating when the amendment was adopted.</p>	
<p>2. The NOI has not adequately described the scope of anticipated participation (Part II of the NOI, above) for the following reason(s):</p> <p>The Amended NOI fails to indicate what budget CEU allocates for its participation on each issue.¹⁰</p>	<input checked="" type="checkbox"/>
<p>3. The NOI has not demonstrated significant financial hardship for the following reason(s):</p> <p>CEU states that the economic interest of the individual members is small in comparison to the costs of effective participation in the proceeding; however, the Amended NOI does not explain a factual basis of this claim.</p>	<input checked="" type="checkbox"/>
<p>4. The Administrative Law Judge provides the following additional guidance (see § 1804(b)(2)):</p> <p>To clarify and complete its showing of the customer status and significant financial hardship, CEU may respond to the ruling by providing the following information and documents:</p> <ol style="list-style-type: none"> 1. CEU’s membership policy, procedures, and composition, and a number of CEU’s members. 2. If CEU represents different categories of energy users, an estimated percentage of each of the categories. 3. A current copy of the bylaws duly dated and signed. 	<input checked="" type="checkbox"/>

¹⁰ See the Intervenor Compensation Program Guide at 8 at <http://cpuc.ca.gov/icom/>.

<p>4. Allocation of CEU's budget by issues on which CEU plans to participate in this proceeding.</p> <p>5. An explanation of the factual basis for CEU's claim of significant financial hardship.¹¹</p> <p>6. Information on all grants, donations, contributions, gifts and loans received by CEU and CEU Foundation¹² during the time period between January of 2013 and October of 2016, including names of the individuals and entities making each grant, donation, contribution, gift and loan; and size, purpose and terms of each grant, donation, contribution, gift and loan.</p> <p>Information identifying these sources of funding may be filed under seal pursuant to Rules 11.4 of the Commission Rules of Practice and Procedure.¹³</p>	
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IT IS RULED that:

1. To complete its showing of customer status and significant financial hardship, Coalition of Energy Users may file information described in this ruling, within 30 days from the date of this ruling, as a response to the ruling.	<input checked="" type="checkbox"/>
2. Additional guidance is provided to Coalition of Energy Users as set forth above.	<input checked="" type="checkbox"/>

Dated October 17, 2016, at San Francisco, California.

/s/ ANN E. SIMON
 Anne E. Simon
 Administrative Law Judge

¹¹ Explanation and an example of how to demonstrate significant financial hardship can be found in the Intervenor Compensation Program Guide at 10 at <http://cpuc.ca.gov/icomp>.

¹² CEU Foundation is a IRC §501(c)(3) project of CEU (see, <http://coalitionofenergyusers.org/ceu-foundation>).

¹³ Practical information on how to file documents under seal can be found on the CPUC Practitioner's page at www.cpuc.ca.gov.